

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
CASE NO. 5:16-cv-00298-BO**

GARY and ANNE CHILDRESS, RUSSELL)
and SUZANNAH HO, and MICHAEL)
CLIFFORD *on behalf of themselves and*)
others similarly situated,)

Plaintiffs,)

v.)

PLAINTIFFS' MOTION TO COMPEL

JP MORGAN CHASE & CO., JP)
MORGAN CHASE BANK, N.A., CHASE)
BANK USA, N.A. and CHASE)
BANKCARD SERVICES, INC.,)

Defendants.)

NOW COME Plaintiffs Gary and Anne Childress, Russell and Suzannah Ho, and Michael Clifford (collectively "Plaintiffs"), by and through the undersigned counsel, and pursuant to Fed. R. Civ. P. 37 and LR 7.1 hereby submit the following Motion to Compel ("Motion"). In support of the Motion, Plaintiffs state as follows:

1. In October of 2016 Plaintiffs Gary and Anne Childress served their First Set of Requests for Production of Documents on Defendants JP Morgan Chase & Co., JP Morgan Chase Bank, N.A., Chase Bank USA, N.A., and Chase Bankcard Services, Inc. (collectively "Defendants") and later that month served their Second Set of Requests for Production of Documents on Defendants. Plaintiffs also served their First Set of Interrogatories to Defendant Chase Bank USA, N.A. in late October 2016.

2. Defendants responses to Plaintiffs' interrogatories have not only been deficient, but largely non-responsive.

3. Instead of providing key information, Defendants have asserted spurious objections, improperly and unilaterally narrowed the scope of Plaintiffs' requests, and refused to provide complete answers that would address core issues in this case.

4. Pursuant to Fed. R. Civ. P. 26(b)(1) the parties are entitled to "discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case."

5. Plaintiffs ask this Court to compel responses certain interrogatories and production of a limited class of high level information relating to Defendants' compliance with Servicemembers Civil Relief Act, 50 U.S.C. App. § 527 ("SCRA"), including:

- (1) Information concerning 2001 through 2009 in response to Plaintiffs' interrogatories 2, 3, 4, 5, 6, and 11 and paper files from that period;
- (2) Complete summaries and key details relating to Defendants' SCRA violations and compliance audits in response to Plaintiffs' interrogatories 2 and 3;
- (3) Complete summaries and key details relating to Defendants' purported "remedial" payments for charging excess interest in violation of the SCRA;
- (4) Production of responsive documents revealed by a reasonable search of Defendants' paper files; and
- (5) Responsive documents of defendants JP Morgan Chase & Co. and JP Morgan Chase Bank, N.A..

6. Plaintiffs are simultaneously filing a memorandum in support of this Motion which contains a Declaration of Knoll Lowney, both of which contain additional background information and arguments in support of this Motion.

WHEREFORE, Plaintiffs respectfully request that the Court compel Defendants to provide the information and documents requested in items 5(1)-(4), above, within fifteen (15) days of the date of its order, and documents requested in item 5(5) within thirty (30) days of the date of its order.

This the 12th day of May, 2017.

SHANAHAN LAW GROUP, PLLC

By: /s/ Brandon S. Neuman
Kieran J. Shanahan, NCSB# 13329
Brandon S. Neuman, NCSB# 33590
Christopher S. Battles, NCSB# 42682
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: (919) 856-9494
Facsimile: (919) 856-9499
kieran@shanahanlawgroup.com
bneuman@shanahanlawgroup.com
cbattles@shanahanlawgroup.com

SMITH & LOWNEY, PLLC

By: /s/ Knoll D. Lowney
Knoll D. Lowney, WSBA# 23457
2317 E. John Street
Seattle, Washington 98112
Telephone: (206) 860-2883
Facsimile: (206) 860-4187
knoll@smithandlowney.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Plaintiff's Motion to Compel** has been electronically filed with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to the following:

R. Scott Adams
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

Alan E. Schoenfeld
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007

This the 12th day of May, 2017.

SMITH & LOWNEY, PLLC

By: /s/ Knoll D. Lowney
Knoll D. Lowney, WSBA# 23457
2317 E. John Street
Seattle, Washington 98112
Telephone: (206) 860-2883
Facsimile: (206) 860-4187
knoll@smithandlowney.com

SHANAHAN LAW GROUP, PLLC

By: /s/ Brandon S. Neuman
Kieran J. Shanahan, NCSB # 13329
Brandon S. Neuman, NCSB # 33590
Christopher S. Battles, NCSB # 42682
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: (919) 856-9494
Facsimile: (919) 856-9499
kieran@shanahanlawgroup.com
bneuman@shanahanlawgroup.com
cbattles@shanahanlawgroup.com

Local Rule 83.1 Counsel
Knoll D. Lowney, WSBA# 23457